



TEXAS DEPARTMENT OF HEALTH
AUSTIN, TEXAS
INTER-OFFICE MEMORANDUM

TO: Regional Directors
 Directors, Local Health Departments
 Directors, Independent WIC Local Agencies
 Herman Horn, Chief, Bureau of Regional/Local Health Operations

FROM: Ray Krzesniak, Director *RK*
 WIC Vendor Operations Division
 Bureau of Nutrition Services

DATE: December 3, 1999

SUBJECT: Freeze on Approving Mobil Units and/or Home Delivery Vendors as WIC Food Vendor Locations

This memo is to advise you that a Freeze is now in effect for the approval of any new WIC food vendor location that can be classified as a mobile unit or home delivery route. A mobile unit, for Texas WIC Program purposes, is being defined as a food vendor operation that does not have: 1) a fixed location recognized by the Postal System as an address where all WIC food sales would be transacted, 2) an electrical utility hook-up at the location, and 3) a store structure situated on a cement or pier and beam foundation. This definition is meant to preclude the general use of trucks, trailers, or other mobile food sales operations without fixed locations as a WIC authorized vendor outlet. This freeze does not now affect currently authorized mobile units and home delivery vendors who will be permitted to continue participation in the program through September 30, 2000.

A letter providing advance written notification to all current WIC vendors falling within the definition above was transmitted earlier this week advising that the Texas WIC Program is contemplating non-renewal of contracts expiring September 30, 2000, with home delivery and mobile units of all types. This action is being considered in light of the Program's recognition that home delivery and mobile units present a vulnerability to the WIC program because their mobility makes it impracticable to monitor these vendors adequately. The program now relies almost exclusively on the conduct of covert compliance buys to test the integrity of vendor compliance with federal and state rules. However, compliance buys are not feasible for this type of vendor.

In addition to providing nutrition education and access to health care, one of the main purposes of the WIC Program is to provide food vouchers for program certified Women, Infants, and Children which are redeemable at retail grocery stores and pharmacies around the state. The Texas WIC Program has approximately 2500 retail outlets under contract to accept Texas WIC food vouchers. Therefore, reasonable access to store locations to redeem WIC food vouchers will not be compromised by the elimination of mobile food sales operations.

The freeze on applications from mobile food sales vendors and the non-renewal of contracts for current vendors in this category complements rule changes recently proposed by the United States Department of Agriculture (USDA) to Title 7 Code of Federal Regulations Part 246, dated September 2, 1999. The proposed regulations defined a vendor as one who has a fixed location. Under the proposed regulations, mobile units could be authorized only if a State Agency identified a special need for such vendor and received prior approval from the United States Department of Agriculture (USDA).

Whether the federal rule change is ultimately adopted as proposed or not, the Texas WIC Program agrees with USDA's assessment regarding the need to limit the participation of mobile food sales merchants due to the monitoring problem they present. It is contemplated that the Texas WIC Program will eventually contract with mobile food sales units only in rare situations where client access to an authorized fixed store location is proven to be problematic. An example of such situation might be service to colonias in some of the border areas of the state.

Should you have questions or comments about this contemplated programmatic change, please advise.



Texas Department of Health

William R. Archer III, M.D.
Commissioner of Health

<http://www.tdh.state.tx.us>

Patti J. Patterson, M.D., M.P.H.
Executive Deputy Commissioner

1100 West 49th Street
Austin, Texas 78756-3 199
512/458-7111

December 1, 1999

Dear Vendor:

This notification is being sent to all contracted WIC food vendors that the Texas WIC Program categorizes as a home delivery or mobile unit. That is to say the account/outlet does not represent a fixed location. A mobile unit, for Texas WIC Program purposes, is being defined as WIC account/outlets that do not have: 1) a fixed location recognized by the Postal System as an address where all WIC food sales are transacted, 2) an electrical utility hook-up at the location, and 3) a store structure situated on a cement or pier and beam foundation. This definition is meant to preclude the general use of trucks, trailers, or other mobile food sales operations without fixed locations.

This letter is to provide advance written notification that the Texas WIC Program is contemplating non-renewal of contracts expiring September 30, 2000, with home delivery and mobile units of all types. This action is being considered in light of the Program's recognition that home delivery and mobile units present a vulnerability to the WIC program because their mobility makes it impracticable to monitor these vendors adequately. The program relies almost exclusively on the conduct of covert compliance buys to test the integrity of vendor compliance with federal and state rules. However, compliance buys are not feasible for this type of vendor.

In addition to providing nutrition education and access to health care, one of the main purposes of the WIC Program is to provide food vouchers for program certified Women, Infants, and Children which are redeemable at retail grocery stores and pharmacies around the state. The Texas WIC Program has approximately 2500 retail outlets under contract to accept Texas WIC food vouchers. Therefore, reasonable access to store locations to redeem WIC food vouchers will not be compromised by the elimination of mobile food sales operations.

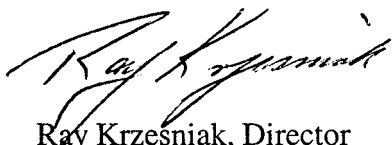
In recognition of this impending change in program policy, the Texas WIC Program is implementing an immediate freeze on new authorizations of applicant vendors who will not operate from a fixed location. This freeze does not now affect currently authorized mobile units and home delivery vendors who will be permitted to continue participation in the program through September 30, 2000.

The freeze on applications from mobile food sales vendors and the non-renewal of contracts for current vendors in this category complements rule changes recently proposed by the United States Department of Agriculture (USDA) to Title 7 Code of Federal Regulations Part 246, dated September 2, 1999. The proposed regulations defined a vendor as one who has a fixed location. Under the proposed regulations, mobile units could be authorized only if a State Agency identified a special need for such vendor and received prior approval from the United States Department of Agriculture (USDA).

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Should you have questions or comments about this contemplated programmatic change, you may write to this office or reach us by phone at 1-800-252-9629.

Sincerely,

A handwritten signature in black ink, appearing to read "Ray Krzesniak", written over a horizontal line.

Ray Krzesniak, Director
WIC Vendor Operations Division
Bureau of Nutrition Services

cc: WIC Local Agency Directors

TDH Office of Governmental Relations